IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos. 10975, 10602 to 10605 of 1998, 2873, 2876 2882 and 2887 of 1999 and LETTERS PATENT APPEAL No. 1562 of 1998 with CIVIL APPLICATION No. 12222 of 1998

Date of Decision: 17-08-2005

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SECRETARY MINISTRY OF LABOUR - Petitioner
Versus
SANNA AMRABHAI & 3 OTHERS - Respondents

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[See Next Page for Full Title]

Coram:

The Hon'ble Mr. Justice Bhawani Singh, Chief Justice

The Hon'ble Mr. Justice H.K Rathod, Judge

Whether approved for Reporting?

For Petitioner:

MR SAMIR J DAVE

For Respondents:

MR DM THAKKAR
MRS VASAVDATTA BHATT

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PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

1 We propose to dispose of this group of 9 Special Civil Applications (Nos.10975, 10602 to 10605 of 1998 and 2873, 2876,

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Whether Reporters of Local Papers may be allowed to see the Judgment?

2882 and 2887 of 1999 and 1 Letters Patent Appeal (No.1562 of 1998) with Civil Application No.12222 of 1998 by this judgment since the question arising for consideration and determination is the same.

2. Respondents were engaged as casual labourers on different dates. However, their services were terminated. Accordingly, they raised industrial dispute before the appropriate Government, seeking reference for adjudication by the Industrial Tribunal after conciliation proceedings failed. But, the Government rejected their prayer on the ground of delay.

3. Respondents preferred Original Applications before the Central Administrative Tribunal (for short `the CAT'), Ahmedabad Bench, Ahmedabad, with exception of Thakore Bhalaji Laxmanji, who filed Special Civil Application No.6177 of 1998 in this Court, which was allowed by decision dated 18.11.1998 and challenged through Letters Patent Appeal No.1562 of 1998 at the instance of the Union of India and others. By order dated 21/30.07.1998, CAT allowed the claim and directed the petitioner to refer the dispute between the respondents and the petitioner for adjudication by appropriate forum under the Industrial Disputes Act, 1947, within three months from the date of communication of the order.

Aggrieved by this order, these Special Civil Applications were filed.

4. Learned counsel for the parties heard. After having examined the matter in the context of catena of decisions rendered by the Apex Court like ***Ajay D. Panalkar v. Management of Pune Telecom Department*** **[(1997) 11 SCC 469]** and ***Director, Government of India v. General Secretary Central Government Small-Scale Industries Organisation Employees' Union and another*** **[(1998) 5 SCC 630]**, we are of the opinion that CAT lacks jurisdiction to exercise powers under Article 227 of the Constitution of India, which are vested with the High Courts. CAT has no jurisdiction to entertain and decide mattes under Industrial Disputes Act, 1947, therefore, the impugned orders are nullity. (See ***Sarwan Kumar and another v. Madan Lal Aggarwal [(2003) 4 SCC 147].***

5. Accordingly, orders dated 21/30.07.1998 passed in Original Applications by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad, are set aside, while order dated 18.11.1998 passed in Special Civil Application No.6177 of 1998 by the learned Single Judge is upheld and the Letters Patent Appeal No.1562 of 1998 along with Civil Application No.12222 of 1998 is dismissed.

6. Now the question arises whether the respondents should be

directed to invoke their rights seeking reference to Industrial Tribunal under the Industrial Disputes Act, 1947? Having considered the decision dated 18.11.1998 of this Court in Special Civil Application No.6177 of 1998 directing respondent-1 to refer the dispute to Industrial Tribunal, respondents in these Special Civil Applications also deserve the same treatment.

Accordingly, Special Civil Applications are allowed. The Secretary, Ministry of Labour or any other appropriate authority competent in this behalf is directed to refer the dispute for adjudication to Industrial Tribunal in all cases within three months from today. Rule is made absolute.

(BHAWANI SINGH)
Chief Justice

(H.K. RATHOD)
Judge

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